

REMARKS

Claims 1-30 are currently pending. The Examiner has rejected claims 1-11 and 14-30. Support for the foregoing amendments is found at least in Figs. 2-4 and 6, and thus, no new matter is entered.

Allowable Subject Matter

Applicant appreciates the indication that the subject matter of claims 12 and 13 is allowable. Applicant believes, however, that each of claims 1-30 is allowable, at least for the reasons stated below.

Claim Rejections

35 U.S.C. §102

The Office Action rejected claims 1-4, 6, and 9-11 under 35 U.S.C. 102(b) as being anticipated by United States Patent Number 2,778,173 to Taunton. ("Taunton").

To anticipate a claim, the reference must teach every element of the claim. "A claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131.

As to claims 1-11 and 14-30, the Examiner stated, at pages 2 and 3, that Taunton teaches a device that "includes a plurality of projections which broadly read on a mechanical tenderizing surface disposed therewithin." Applicant respectfully submits that Taunton fails to teach at least a plurality of protuberances, as claimed, and further

fails to teach any structure capable of tenderizing meat or other selected food item or any methodology of tenderizing same. Taunton merely teaches a corrugated surface for creating air channels to facilitate evacuation of air from a package. As is clearly shown in Fig. 7 of Taunton, the “projections”, which are merely corrugations within the surface (as opposed to protuberances disposed on and extending from the surface), are flattened when the package is evacuated, as indicated by numeral 14. Thus, the projections would not tenderize food when pressed thereagainst, but would collapse and flatten. Since Taunton fails to teach each and every element of Applicant’s claimed invention, and because the corrugated surface of Taunton is clearly not capable of performing the claimed meat tenderizing function, Applicant respectfully requests withdrawal of the rejections.

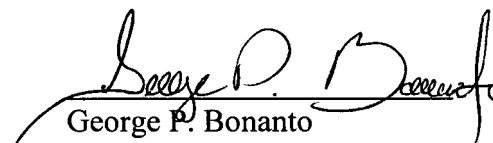
Furthermore, even assuming, *arguendo*, that the corrugated surface projections were sufficiently rigid to allow tenderizing some foods therewith, such use of the corrugations in the surface of the bag of Taunton to tenderize food, e.g. by pressing the corrugations into the surface of the food, would destroy the function of the corrugations as intended. Specifically, if the corrugations were used to tenderize meat, or any other food, the air channels between adjacent corrugations would be filled with the meat or other food, thereby preventing air from flowing through the channels, and thus trapping air within the package during the evacuation process. Thus the corrugations would not function as intended, i.e. as means for creating air channels to facilitate evacuation of air from the package. The fact that the corrugated surface projections cannot be used as the Examiner has proposed without destroying their function, as taught in the reference, is evidence that the Examiner’s interpretation of the reference is unreasonable.

CONCLUSION

Applicant respectfully submits that pending claims 1-30 are in condition for allowance at least for the reasons stated above, and respectfully requests that the Examiner withdraw the rejection of claims 1-11 and 14-30.

If the Examiner has any questions regarding this document, Applicant asks that the Examiner contact Applicant's undersigned attorney.

Respectfully submitted,



George P. Bonanto
Reg. No. 59,717

Myers & Kaplan
Intellectual Property Law, LLC
1899 Powers Ferry Road
Suite 110
Atlanta, GA 30339
Tel: (770) 541-7444
Fax: (770) 541-7448